IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

OP.No. 37353 of 2002(V)

PETITIONER:

---

1. M/S. EMINENT SEA FOODS PRIVATE LIMITED,
   PLOT NO.9, COCHIN FISHERIES HARBOUR,THOPPUMPADY,
   KOCHI-682 005, BY ITS MANAGING DIRECTOR,
   MAJ C.J.THOMAS (RTD.).

2. MAJOR (RTD.), C.J.THOMAS,
   S/O. VARGHESE YOHANNAN, AGED 65, RESIDING AT
   ANSU VILLA, KADAVANTHRA, KOCHI-20.

3. COL.(RTD.) K.C.GEORGE,
   RESIDING AT 2836, K.S.N.MENON ROAD,
   ERNAKULAM, KOCHI-16.

BY ADV. SRI.V.VENUGOPALAN NAIR
SRI.S.HARIKRISHNAN

RESPONDENTS:

---

1. THE KERALA STATE INDUSTRIAL DEVELOPMENT
   CORPORATION LTD., 2ND FLOOR, CHOICE TOWERS,
   MANORAMA JUNCTION, KOCHI-682 016,
   REPRESENTED BY ITS SECRETARY.

2. THE DEPUTY TAHSILDAR (R.R),
   KANAYANNUR TALUK, ERNAKULAM.

BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE
GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO. 37353/2002

ORDER ON C.M.P. NO. 63153 OF 2002 IN O.P. NO. 37353/2002

ORDER ON C.M.P. NO. 16122 OF 2003 IN O.P. NO. 37353/2002

&

ORDER ON C.M.P. NO. 1758 OF 2003 IN C.M.P. NO. 63153/2002 IN O.P. NO. 37353/2002

DISMISSED.

13/11/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE DEED OF AGREEMENT BETWEEN THE 1ST PETITIONER AND 1ST RESPONDENT.

P2 : COPY OF THE NOTICE DATED 09/01/1996 ISSUED BY THE 1ST RESPONDENT.

P3 : COPY OF THE REPLY DATED 29/01/1996.

P4 : COPY OF THE LETTER ISSUED by the 1ST RESPONDENT.

P5 : COPY OF THE LETTER DATED 14/08/2001 ISSUED to the 1ST RESPONDENT.

P6 : COPY OF the NOTICE DATED 21/12/2001.

P7 : COPY OF THE DEMAND NOTICE DATED 02/12/2002.

P8 : COPY OF THE REPRESENTATION DATED 04/01/2003 SUBMITTED BY 2ND PETITIONER BEFORE THE 1ST RESPONDENT.

P8 : COPY OF the REPRESENTATION SUBMITTED BY THE 1ST PETITIONER BEFORE THE 1ST RESPONDENT.

P9 : COPY OF the JUDGMENT DATED 03/07/2002 OF THIS COURT IN W.A. NO. 141/1996.

P10 : COPY OF THE AUCTION NOTICE NO. B11-48984-02 DATED 22/02/2003 ISSUED by the 2ND RESPONDENT.

P10 : COPY OF THE POWER OF ATTORNEY DATED 07/02/2003 EXECUTED BY PETITIONERS HEREIN IN THE NAME OF DR. DHANANJAY D.DEO, HOUSE NO. 169, GIRI NAGAR, COCHIN – 20.

O.P. NO. 37353/2002

RESPONDENT'S EXHIBITS

R1(a) : COPY OF LETTER DATED 04/09/1999 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

R1(b) : COPY OF THE LETTER DATED 24/09/1999 ISSUED BY THE ADVOCATE OF THE PETITIONERS TO THE 1ST RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 37353 of 2002

Dated, this the 13th day of November, 2007

J U D G M E N T

Heard learned counsel for petitioners and learned standing counsel for KSIDC.

2. Petitioners are disputing liability on the ground that full amount of the promised loan was not released to them. Petitioners had filed an original petition earlier, whereunder petitioners sought for a direction from this Court against the KSIDC for release of balance loan amount. This court turned down the same, which was also confirmed in appeal vide Ext.P9 judgment. The present dispute is on the same ground. Since this Court did not accept petitioners' argument that they are entitled to full loan amount requested by them, their claim that released loan amount cannot be recovered from them is not tenable. Petitioners have admittedly availed the loan and executed document undertaking to repay the amount. I do not know on what basis petitioners can now say that they are not liable to repay the loan amount with interest. This original petition is, therefore, devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg